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**FILED**

**AUG 12 2010**

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) NO. CR 10-0583 RS

Plaintiff, )

v. )

NICANOR HERNANDEZ PEREZ, )  
a/k/a NICANOR PEREZ )  
HERNANDEZ, )

Defendant. )

**STIPULATION AND ~~[PROPOSED]~~  
ORDER EXCLUDING TIME UNDER 18  
U.S.C. § 3161**

On August 5, 2010, the parties in this case appeared before the Court. At that time, the Court set the matter to August 31, 2010 at 10:00 a.m. before the Honorable Richard Seeborg. On August 9, 2010, the clerk for the Honorable Richard Seeborg notified the parties that the matter set for August 31, 2010, was continued to September 7, 2010. The parties have agreed to exclude the period of time between August 5, 2010 and September 7, 2010, from any time limits applicable under 18 U.S.C. § 3161. The parties represented that granting the exclusion would allow the reasonable time necessary for effective preparation of counsel. See 18 U.S.C. §

1 3161(h)(7)(B)(iv). The parties also agree that the ends of justice served by granting such an  
2 exclusion of time outweigh the best interests of the public and the defendant in a speedy trial. 18  
3 U.S.C. § 3161(h)(7)(A). At the hearing, the Court made findings consistent with this agreement.

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6 SO STIPULATED:

7 JOSEPH P. RUSSONIELLO  
8 United States Attorney

9  
10 DATED: August 12, 2010

11 /s/  
12 LOWELL C. POWELL  
Special Assistant United States Attorney

13 DATED: August 12, 2010

14 /s/  
ELIZABETH FALK  
Attorney for NICANOR HERNANDEZ PEREZ

[PROPOSED] ORDER

For the reasons stated above and at the August 5, 2010 hearing, the Court finds that the exclusion from the time limits applicable under 18 U.S.C. § 3161 of the period from August 5, 2010 through September 7, 2010 is warranted and that the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. §3161(h)(7)(A). The failure to grant the requested exclusion of time would deny counsel for the defendant and for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. 18 U.S.C. §3161(h)(7)(B)(iv).

IT IS SO ORDERED.

DATED: Aug 12, 2010

  
THE HONORABLE ELIZABETH D. LAPORTE  
United States District Judge